

which is the number of days in that taxable year.

(ii) *Taxable years after the year of disposition.* A transferor that retains a qualifying interest in a nuclear power plant must file a request for a revised schedule of ruling amounts with respect to that interest on or before the deemed payment deadline for the first taxable year of the transferor beginning after the disposition. See § 1.468A-3(i)(1)(ii)(B). If the transferor does not timely file such a request, the transferor's ruling amount with respect to that interest for the affected year or years will be zero, unless the Internal Revenue Service waives the application of this paragraph (e)(1)(ii) upon a showing of good cause for the delay.

(2) *Transferee.* If a transferee acquires all or a portion of a transferor's qualifying interest in a nuclear power plant under this section, the transferee's schedule of ruling amounts with respect to the interest acquired will be determined under paragraphs (e)(2) (i) and (ii) of this section.

(i) *Taxable year of disposition.* If a transferee does not file a request for a schedule of ruling amounts on or before the deemed payment deadline for the taxable year of the transferee in which the disposition occurs (that is, the date that is two and one-half months after the close of that year), the transferee's ruling amount with respect to the interest acquired in the nuclear power plant for that year is the amount described in the following sentence. This amount is the amount contained in the transferor's current schedule of ruling amounts for that plant for the taxable year of the transferor in which the disposition occurred, multiplied by the product of—

(A) The portion of the transferor's qualifying interest that is transferred; and

(B) A fraction, the numerator of which is the number of days in the taxable year of the transferor including and following the date of disposition, and the denominator of which is the number of days in that taxable year.

(ii) *Taxable years after the year of disposition.* A transferee of a qualifying interest in a nuclear power plant must file a request for a revised schedule of ruling amounts with respect to that in-

terest on or before the deemed payment deadline for the first taxable year of the transferee beginning after the disposition. See § 1.468A-3(i)(1)(ii)(B). If the transferee does not timely file such a request, the transferee's ruling amount with respect to that interest for the affected year or years will be zero, unless the Internal Revenue Service waives the application of this paragraph (e)(2)(ii) upon a showing of good cause for the delay.

(3) *Example.* The following example illustrates the provisions of this paragraph (e).

Example. (i) X Corporation is a calendar year taxpayer engaged in the sale of electric energy generated by a nuclear power plant. The plant is owned entirely by X. On May 27, 1995, X transfers a 60 percent qualifying interest in the plant to Y Corporation, a calendar year taxpayer. Before the transfer, X had received a schedule of ruling amounts containing an annual ruling amount of \$10 million for the taxable years 1993 through 2013. For 1995, neither X nor Y files a request for a revised schedule of ruling amounts.

(ii) Under paragraph (e)(1)(i) of this section, X's ruling amount for 1995 is calculated as follows: $(\$10,000,000 \times 40\%) + (\$10,000,000 \times 60\% \times 146/365) = \$6,400,000$. Under paragraph (e)(2)(i) of this section, Y's ruling amount for 1995 is calculated as follows: $\$10,000,000 \times 60\% \times 219/365 = \$3,600,000$. Under paragraphs (e)(1)(ii) and (e)(2)(ii) of this section, X and Y must file requests for revised schedules of ruling amounts by March 15, 1997.

(f) *Calculation of the qualifying percentage after dispositions described in this section—*(1) *In general.* If a transferee acquires an interest in a nuclear power plant in a transaction that satisfies the requirements of this section, the transferee's qualifying percentage (within the meaning of § 1.468A-3(d)(4)) for the interest acquired is the transferor's qualifying percentage for that interest immediately before the disposition. If the Internal Revenue Service has not approved a qualifying percentage for the transferor with respect to the interest transferred, the qualifying percentage for that interest is determined under § 1.468A-3(d)(4).

(2) *Special rule.* The Internal Revenue Service may, in its discretion, determine a qualifying percentage for an interest in a nuclear power plant acquired by a transferee on a basis other than the rule set forth in paragraph (f)(1) of this section if—

(i) In connection with its first request for a schedule of ruling amounts after the disposition, the transferee requests special treatment, explains the need for such treatment, and sets forth an alternative basis for determining the qualifying percentage; and

(ii) The Internal Revenue Service determines that the special treatment is consistent with the purposes of section 468A.

(g) *Other—(1) Anti-abuse provision.* The Internal Revenue Service may treat a disposition occurring on or after December 27, 1994 as satisfying the requirements of this section if the Internal Revenue Service determines that this treatment is necessary or appropriate to carry out the purposes of section 468A and the regulations thereunder.

(2) *Relief provision.* Upon request of the electing taxpayer, the Internal Revenue Service may treat a disposition occurring after July 17, 1984, and before December 27, 1994 as satisfying the requirements of this section if the Internal Revenue Service determines that this treatment is necessary or appropriate to carry out the purposes of section 468A and the regulations thereunder.

(h) *Effective date.* Section 1.468A-6 is effective for a disposition of an interest in a nuclear power plant on or after December 27, 1994.

[T.D. 8580, 59 FR 66474, Dec. 27, 1994]

§ 1.468A-7 Manner of and time for making election.

(a) *In general.* An eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in the filing of a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be de-

ducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement (“Election Statement”) and a copy of the schedule of ruling amounts provided pursuant to the rules of § 1.468A-3 to the taxpayer’s Federal income tax return (or, in the case of an affiliated group of corporations that join in the filing of a consolidated return, the consolidated return) for such taxable year. Except as otherwise provided in paragraph (b)(3) of § 1.468A-8, the return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

(b) *Required information.* The Election Statement must include the following information:

(1) The legend “Election Under Section 468A” typed or legibly printed at the top of the first page.

(2) The electing taxpayer’s name, address and taxpayer identification number (or, in the case of an affiliated group of corporations that join in the filing of a consolidated return, the name, address and taxpayer identification number of each electing taxpayer).

(3) The taxable year for which the election is made.

(4) For each nuclear decommissioning fund for which an election is made—

(i) The name and location of the nuclear power plant to which the fund relates;

(ii) The name and employer identification number of the nuclear decommissioning fund;

(iii) The total amount of actual cash payments made to the nuclear decommissioning fund during the taxable year that were not treated as deemed cash payments under paragraph (c)(1) of § 1.468A-2 for a prior taxable year;

(iv) The total amount of cash payments deemed made to the nuclear decommissioning fund under paragraph (c)(1) of § 1.468A-2 for the taxable year; and

(v) The cost of service amount for the taxable year (see paragraph (b)(2) of § 1.468A-2).

[T.D. 8184, 53 FR 6818, Mar. 3, 1988]

§ 1.468A-8 Effective date and transitional rules.

(a) *Effective date*—(1) *In general.* Section 468A and §§ 1.468A-1 through 1.468A-5, 1.468A-7 and 1.468A-8 are effective on July 18, 1984, and apply with respect to taxable years ending on or after such date.

(2) *Cut-off method applicable to electing taxpayers.* Any amount of nuclear decommissioning costs taken into account before July 18, 1984, for a taxable year beginning before such date, is not allowable as a deduction after July 17, 1984, under section 468A(c)(2) and paragraph (e) of § 1.468A-2.

(b) *Transitional rules*—(1) *Time for filing request for schedule of ruling amounts.* The Internal Revenue Service shall provide a ruling amount for any taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, if—

(i) Paragraph (g) of § 1.468A-3 is satisfied for the taxable year; and

(ii) The taxpayer files a request for a schedule of ruling amounts that includes a proposed ruling amount for the taxable year on or before June 1, 1988.

(2) *Manner of and time for making contributions to a nuclear decommissioning fund.* (i) The amount of any contribution (including a contribution of property allowed under paragraph (b)(2)(ii) of this section) to a nuclear decommissioning fund that relates to a taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, shall be deemed made during such taxable year if—

(A) The taxpayer makes such contribution on or before the 30th day after the date the taxpayer receives a ruling amount applicable to such taxable year; and

(B) The taxpayer irrevocably designates the amount of such contribution as relating to such taxable year on the Election Statement attached to its Federal income tax return (or amended return) for such taxable year.

(ii)(A) An electing taxpayer may contribute property to a nuclear decommissioning fund if the property—

(1) Is described in paragraph (a)(3)(i)(C) of § 1.468-5;

(2) Was acquired after July 18, 1984, and before March 3, 1988; and

(3) Is contributed for any taxable year ending after July 18, 1984, and beginning before March 3, 1988.

(B) If a taxpayer contributes property to a nuclear decommissioning fund under this paragraph (b)(2)(ii)—

(1) The amount of the contribution (and the basis of the property to the nuclear decommissioning fund) shall equal the fair market value of the property on the date the property is contributed to the nuclear decommissioning fund;

(2) The contribution of the property to the nuclear decommissioning fund shall be considered a sale or exchange of the property by the taxpayer for purposes of section 1001; and

(3) For purposes of section 1001, the amount realized by the taxpayer shall be the fair market value of the property on the date the property was contributed to the nuclear decommissioning fund.

(iii) A fund established by a taxpayer for the purpose of paying the decommissioning costs of a nuclear power plant is not treated as a nuclear decommissioning fund before the earlier of—

(A) The date the taxpayer receives an initial schedule of ruling amounts with respect to the fund, or

(B) The first day of the first taxable year of the taxpayer that begins on or after January 1, 1987,

even if the taxpayer elects the application of section 468A for a taxable year that begins before such date. Any income earned before such date by the assets of a fund that satisfies the requirements of § 1.468A-5 must be included in the gross income of the taxpayer treated under section 671 as the owner of such assets.

(iv) If a fund is first treated as a nuclear decommissioning fund on the date described in paragraph (b)(2)(iii) of this section—

(A) The assets held in the fund on such date shall be treated for purposes